

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
ALEXANDRIA DIVISION**

Valerie Jones,	:
	:
Plaintiff,	: Civil Action No.: _____
v.	:
Convergent Healthcare Recoveries, Inc.;	: MAGISTRATE JUDGE:
and DOES 1-10, inclusive,	:
Defendants.	:
	:
	:
	:

COMPLAINT

For this Complaint, the Plaintiff, Valerie Jones, by undersigned counsel, states as follows:

JURISDICTION

1. This action arises out of the Defendants' repeated violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et seq. ("FDCPA"), and the invasions of the Plaintiff's personal privacy by the Defendants and their agents in their illegal efforts to collect a consumer debt.
2. Supplemental jurisdiction exists pursuant to 28 U.S.C. § 1337.
3. Venue is proper in this District pursuant to 28 U.S.C. § 1331(b), in that the Defendants transact business in this District and a substantial portion of the acts giving rise to this action occurred in this District.

PARTIES

4. The Plaintiff, Valerie Jones (“Plaintiff”), is an adult individual residing in Ferriday, Louisiana, and is a “consumer” as the term is defined by 15 U.S.C. § 1692a(3).

5. The Defendant, Convergent Healthcare Recoveries, Inc. (“Convergent”), is a business entity with an address of 124 SW Adams Street, Suite 210/215, Peoria, Illinois 61602, operating as a collection agency, and is a “debt collector” as the term is defined by 15 U.S.C. § 1692a(6).

6. Does 1-10 (the “Collectors”) are individual collectors employed by Convergent and whose identities are currently unknown to the Plaintiff. One or more of the Collectors may be joined as parties once their identities are disclosed through discovery.

7. Convergent at all times acted by and through one or more of the Collectors.

ALLEGATIONS APPLICABLE TO ALL COUNTS

A. The Debt

8. The Plaintiff allegedly incurred a financial obligation in the approximate amount of \$398.48 dollars (the “Debt”) to Value Healthcare Management (the “Creditor”).

9. The Debt arose from services provided by the Creditor which were primarily for family, personal or household purposes and which meets the definition of a “debt” under 15 U.S.C. § 1692a(5).

10. The Debt was purchased, assigned or transferred to Convergent for collection, or Convergent was employed by the Creditor to collect the Debt.

11. The Defendants attempted to collect the Debt and, as such, engaged in “communications” as defined in 15 U.S.C. § 1692a(2).

B. Convergent Engages in Harassment and Abusive Tactics

12. Within the past year, Defendants began placing calls to Plaintiff's residential telephone line in an attempt to collect on the Debt.

13. The Debt was incurred in or around 1980 and Plaintiff has made no payment toward the Debt since then. The Debt is therefore beyond the prescriptive period.

14. Plaintiff spoke with Defendants on one occasion, and informed them that Plaintiff is unemployed and has no way of paying the Debt to Defendants.

15. Defendants stated that unless Plaintiff paid the Debt, Defendants "will resolve [the Debt] through court, and [Plaintiff] will have to pay court costs."

16. Furthermore, on or about June 6, 2012, Defendants left a voicemail on Plaintiff's residential telephone answering machine stating Plaintiff needs to call Defendants back to resolve [the Debt] and if not, [Defendants] will take further action."

C. Plaintiff Suffered Actual Damages

17. The Plaintiff has suffered and continues to suffer actual damages as a result of the Defendants' unlawful conduct.

18. As a direct consequence of the Defendants' acts, practices and conduct, the Plaintiff suffered and continues to suffer from humiliation, anger, anxiety, emotional distress, fear, frustration and embarrassment.

19. The Defendants' conduct was so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized community.

COUNT I

VIOLATIONS OF THE FDCPA 15 U.S.C. § 1692, et seq.

20. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

21. The Defendants' conduct violated 15 U.S.C. § 1692d in that Defendants engaged in conduct the natural consequence of which was to harass, oppress, or abuse Plaintiff in connection with the collection of a debt.

22. The Defendants' conduct violated 15 U.S.C. § 1692e(2) in that Defendants misrepresented the character and legal status of the Debt.

23. The Defendants' conduct violated 15 U.S.C. § 1692e(5) in that Defendants threatened to take legal action, without actually intending to do so.

24. The Defendants' conduct violated 15 U.S.C. § 1692e(10) in that Defendants employed false and deceptive means to collect a debt.

25. The Defendants' conduct violated 15 U.S.C. § 1692f in that Defendants used unfair and unconscionable means to collect a debt.

26. The foregoing acts and omissions of the Defendants constitute numerous and multiple violations of the FDCPA, including every one of the above-cited provisions.

27. The Plaintiff is entitled to damages as a result of Defendants' violations.

COUNT II

**VIOLATIONS OF THE LOUISIANA FAIR DEBT COLLECTION PRACTICES ACT
LA. REV. STAT. RS 9:3562, et al.**

28. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

29. The Plaintiff is a "consumer" as defined by La. Rev. Stat. Ann. § 3516(10).

30. Each Defendant is a “debt collector” as defined by La. Rev. Stat. 9:3534.1(A).
31. The Defendants contacted the Plaintiff and threatened action not otherwise permitted by law in violation of LA. Rev. Stat. 9:3562(3).
32. The Plaintiff is entitled to damages pursuant to La. Rev. Stat. 9:3572.12.

COUNT III
INVASION OF PRIVACY BY INTRUSION INTO PRIVATE AFFAIRS

33. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.
34. The Restatement of Torts, Second, § 652(b) defines intrusion upon seclusion as, “One who intentionally intrudes...upon the solitude or seclusion of another, or his private affairs or concerns, is subject to liability to the other for invasion of privacy, if the intrusion would be highly offensive to a reasonable person.”
35. Louisiana further recognizes the Plaintiff’s right to be free from invasions of privacy, thus the Defendants violated Louisiana state law.
36. The Defendants intentionally intruded upon the Plaintiff’s right to privacy by continually harassing the Plaintiff with numerous calls to her residential telephone line.
37. The telephone calls made by the Defendants to the Plaintiff were so persistent and repeated with such frequency as to be considered, “hounding the plaintiff,” and, “a substantial burden to her existence,” thus satisfying the Restatement of Torts, Second, § 652(b) and Louisiana law requirements for an invasion of privacy.
38. The conduct of the Defendants in engaging in the illegal collection activities resulted in multiple invasions of privacy in such a way as would be considered highly offensive to a reasonable person.

39. As a result of the intrusions and invasions, the Plaintiff is entitled to actual damages in an amount to be determined at trial from the Defendants.

COUNT IV
INTENTIONAL INFILCTION OF EMOTIONAL DISTRESS

40. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully set forth herein at length.

41. The acts, practices and conduct engaged in by the Defendants vis-à-vis the Plaintiff was so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized community.

42. The foregoing conduct constitutes the tort of intentional infliction of emotional distress under the laws of the State of Louisiana.

43. All acts of the Defendants and the Collectors complained of herein were committed with malice, intent, wantonness, and recklessness.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays that judgment be entered against the Defendants:

1. Actual damages pursuant to 15 U.S.C. § 1692k(a)(1) against the Defendants;
2. Statutory damages of \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A) against the Defendants;
3. Costs of litigation and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k(a)(3) against the Defendants;
4. Actual damages pursuant to La. Rev. Stat. Ann. §9-625;
5. Actual damages from the Defendants for the all damages including emotional

distress suffered as a result of the intentional, reckless, and/or negligent
FDCPA violations and intentional, reckless, and/or negligent invasions of
privacy in an amount to be determined at trial for the Plaintiff;

6. Such other and further relief as may be just and proper.

TRIAL BY JURY DEMANDED ON ALL COUNTS

Dated: June 13, 2012

Respectfully submitted,

By: /s/ Kenneth D. McLean
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